

SENATE BILL 399

By Haynes

AN ACT relative to billing practices for water consumption.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context otherwise requires:

(1) "Action" includes recoupment, counterclaim, set-off, suit in equity and any other proceeding in which rights are determined, including an action for possession;

(2) "Building" means any condominium, premanufactured housing, and any building containing more than one (1) residential unit, including apartments, and similar multiple user installations, but does not include hotels, motels, bed and breakfast establishments or other similar transient lodging;

(3) "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises, or dwelling unit;

(4) "Constructed" means that a valid use and occupancy or equivalent permit has been issued for a building;

(5) "Landlord" means the owner, property management company, lessor, or sublessor of the dwelling unit or the building of which it is a part;

(6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest and any other legal or commercial entity;

(7) (A) "Owner" means one (1) or more persons, jointly or severally, in whom is vested:

(i) All or part of the legal title to property; or

(ii) All or part of the beneficial ownership and a right to the present use and enjoyment of the premises;

(B) "Owner" also includes a mortgagee in possession.

(8) "Person" includes an individual or organization;

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant;

(10) "Rental agreement" means all agreements, written or oral, and valid rules and regulations embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;

(11) "Rents" means all payments to be made to the landlord under the rental agreement;

(12) (A) "Security deposit" means an escrow payment made to the landlord under the rental agreement for the purpose of securing the landlord against financial loss due to damage to the premises occasioned by the tenant's occupancy other than ordinary wear and tear; and

(B) "Security deposit" does not include advance rentals;

(13) "Submetering" means the installation and operation of equipment to determine the estimated use of water for each tenant or premanufactured home owner;

(14) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others; and

(15) "Ratio Utility Billing System" means any system which apportions water usage among individual residential units.

SECTION 2. After the effective date of this act:

(1) No owner of a newly constructed building subject to the provisions of this act shall charge individual dwelling units separately for each dwelling unit's water consumption by individual billing unless each residential unit has its own separate water meter to measure water usage. If the owner of any such newly constructed building elects to provide individual billing for each such residential unit, then the local water utility shall be given first option to supply such submetering equipment and related services for each residential unit. If such water utility elects not to supply such equipment and related services for such building, then the owner may contract with another public or private entity for such equipment and related services.

(2) No owner of an existing building subject to the provisions of this act with a master meter shall charge individual dwelling units separately for each dwelling unit's water consumption unless each residential unit has its own separate water meter, submetering equipment for each residential unit is provided, or a Ratio Utility Billing System is utilized to measure water usage.

(3) Water and wastewater utility bills of buildings subject to this act may be issued by the property owner, a manager of such property, or a qualified billing agent.

(4) Water and wastewater service shall not be provided to any person who is not a tenant of the building.

(5) Each water and wastewater utility bill issued pursuant to this act shall have printed on it a phone number for tenants to call in order to resolve any billing disputes.

(6) A tenant's water and wastewater service may be terminated for nonpayment of any water or wastewater utility bill.

(7) Information regarding the water and wastewater submetering and billing arrangement shall be provided in each tenant's rental agreement or contract.

(8) Each water and wastewater utility bill shall set forth clearly all relevant fees and charges and any other information that is pertinent to the transaction.

SECTION 3. The owner of a building subject to the provisions of this act may install submetering equipment for each individual dwelling unit or implement a Ratio Utility Billing System to allocate equitably the costs of each residential dwelling unit's water consumption. For the purposes of this chapter, costs of water consumption shall include the cost of the water consumed, wastewater charges based upon consumption, and reasonable administrative costs. For the purposes of this section, reasonable administrative costs shall include the actual cost of inspecting the submeter, maintenance of submeters, billing, and testing and registration of submeters. The applicable rate or fee for such services shall be posted on all bills provided to tenants. Reasonable administrative costs shall not exceed four dollars (\$4.00) per individual dwelling unit per month. All charges for the period shall be separately stated along with the opening and closing readings of the meter.

SECTION 4. Every master meter customer is responsible for maintenance and repair of its submeter facilities that are separate from the master meter. Every water utility shall have the right to refuse to provide service to submetered facilities. Every water utility offering service to

submetered facilities shall have the right to establish and collect such fees and charges as it determines proper for such services.

SECTION 5. The Tennessee Regulatory Authority is hereby authorized to examine for accuracy billing procedures by buildings subject to the provisions of this act, to require the submission of data on accuracy of submeters, and to require bills to be adjusted accordingly. The size, type and placement of all meters, other flow-measuring devices, and any applicable valves and shut-offs may be specified by the authority.

SECTION 6. Notwithstanding any provision of law to the contrary, the landlord of a building subject to the provisions of this act that employs submetering or a Ratio Utility Billing System may deduct the unpaid costs of a residential unit's water consumption from a separate water deposit received for such residential unit.

SECTION 7. For the purpose of promulgating rules and regulations by the Tennessee Regulatory Authority, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 2002, the public welfare requiring it.